

Sec. 5. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 20, 1993

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## CHAPTER 30

### REAL ESTATE TRANSFERS — DISCLOSURE STATEMENTS

*H.F. 636*

**AN ACT** relating to information regarding real estate, by providing for the filing of reports, and transfer of certain real estate and providing effective dates.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 543B.9, Code 1993, is amended to read as follows:  
543B.9 RULES.

The real estate commission is ~~empowered to promulgate~~ may adopt rules to carry out and administer the provisions of this chapter ~~consistent therewith~~. ~~Said~~ The commission may carry on a program of education of real estate practices and matters relating ~~thereto~~ to real estate. The commission shall adopt rules necessary to carry out the provisions of chapter 558A relating to the disclosure of information before the transfer of real estate.

Sec. 2. Section 543B.46, subsection 6, Code 1993, is amended to read as follows:

6. The commission ~~will~~ shall verify on a test basis, a random sampling of the brokers, corporations, and partnerships for their trust account compliance as a condition of licensure renewal. Each broker, corporation, and partnership shall submit a special report ~~or audit~~ of their trust account to the commission when required.

The special report ~~or audit~~ shall be submitted with the filed renewal application or at such other time as the commission may direct. In addition, the commission may upon reasonable cause request or order ~~an audit or a special report~~. ~~All audits and special reports addressed in this section shall be conducted at the expense of the broker by a certified public accountant.~~

Sec. 3. **NEW SECTION.** 558A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Broker" means a real estate broker licensed pursuant to chapter 543B.
2. "Commission" means the real estate commission created pursuant to section 543B.8.
3. "Salesperson" means a salesperson licensed pursuant to chapter 543B.
4. "Transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, a transfer does not include any of the following:
  - a. A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.
  - b. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.

c. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

d. A transfer between joint tenants or tenants in common.

e. A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

f. A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

g. A transfer to or from the state, a political subdivision of the state, another state, or the United States.

h. A transfer by quitclaim deed.

5. "Transferee" means a person who is acquiring real property as provided in an instrument containing the power to transfer real estate, including an instrument described in section 558.1.

6. "Transferor" means a person who is transferring real property as provided in an instrument containing the power to transfer real estate, including an instrument described in section 558.1.

#### Sec. 4. NEW SECTION. 558A.2 PROCEDURES.

1. A person interested in transferring real property, or a broker or salesperson acting on behalf of the person, shall deliver a written disclosure statement to a person interested in being transferred the real property. The disclosure statement must be delivered prior to either the transferor\* making a written offer for the transfer of the real property, or accepting a written offer for the transfer of the real property.

2. The disclosure statement shall be made by personal delivery or by certified or registered mail to the transferee. The delivery may be made to the spouse of the transferee, unless otherwise provided by the parties. If the disclosure statement is not timely delivered, the transferee may withdraw the offer or revoke the acceptance without liability, within three days following personal delivery of the statement or five days following delivery by mail.

3. The disclosure statement may be filed with the county recorder with instruments affecting the transfer of real estate. However, the failure to file the statement shall not cause a defect in the title to the property.

#### Sec. 5. NEW SECTION. 558A.3 GOOD FAITH AND AMENDMENTS.

1. All information required by this section and rules adopted by the commission shall be disclosed in good faith. If at the time the disclosure is required to be made, information required to be disclosed is not known or available to the transferor, and a reasonable effort has been made to ascertain the information, an approximation of the information may be used. The information shall be identified as an approximation. The approximation shall be based on the best information available at the time.

2. A disclosure statement shall be amended, if information disclosed in the statement is or becomes inaccurate or misleading, or is supplemented. The amended statement shall be subject to the same procedures as the original disclosure statement as provided in this chapter. However, the statement is not required to be amended if either of the following applies:

a. The information disclosed in conformance with this chapter is subsequently rendered inaccurate as a result of an act, occurrence, or agreement subsequent to the delivery of the disclosure statement.

b. The information is based on information of a public agency, including the state, a political subdivision of the state, or the United States. The information shall be deemed to be accurate and complete, unless the transferor or the broker or salesperson has actual knowledge of an error, inaccuracy, or omission, or fails to exercise ordinary care in obtaining the information.

#### Sec. 6. NEW SECTION. 558A.4 REQUIRED INFORMATION.

1. The disclosure statement shall include information relating to the condition and important characteristics of the property and structures located on the property, including significant defects in the structural integrity of the structure, as provided in rules which shall be

\*According to enrolled Act

adopted by the real estate commission pursuant to section 543B.9. The rules may require the disclosure to include information relating to the property's zoning classification; the condition of plumbing, heating, or electrical systems; or the presence of pests.

2. The disclosure statement may include a report or written opinion prepared by a person qualified to make judgment based on education or experience, as provided by rules adopted by the commission, including but not limited to a land surveyor licensed pursuant to chapter 542B, a geologist, a structural pest control operator licensed pursuant to section 206.6, or a building contractor. The report or opinion on a matter within the scope of the person's practice, profession, or expertise shall satisfy the requirements of this section or rules adopted by the commission regarding that matter required to be disclosed. If the report or opinion is in response to a request made for purposes of satisfying the disclosure statement, the report or opinion shall indicate which part of the disclosure statement the report or opinion satisfies.

**Sec. 7. NEW SECTION. 558A.5 AGENCY.**

1. A person other than a broker or salesperson acting in the capacity of an agent in the transfer of real property shall not be deemed to be an agent of the transferor or transferee for purposes of this chapter, unless the person is granted powers of attorney or is empowered as an agent, as expressly provided in writing, and is subject to any other applicable requirements as provided by law.

2. A broker or salesperson representing the transferor shall deliver the disclosure statement to the transferee as required in section 558A.2, unless the transferor or transferee has instructed the broker or salesperson otherwise in writing.

**Sec. 8. NEW SECTION. 558A.6 LIABILITY UNDER THE CHAPTER.**

A person who violates this chapter shall be liable to a transferee for the amount of actual damages suffered by the transferee, but subject to the following limitations:

1. The transferor, or a broker or salesperson, shall not be liable under this chapter for the error, inaccuracy, or omission in information required in a disclosure statement, unless that person has actual knowledge of the inaccuracy, or fails to exercise ordinary care in obtaining the information.

2. The person submitting a report or opinion within the scope of the person's practice, profession, or expertise, as provided in section 558A.4, for purposes of satisfying the disclosure statement, shall not be liable under this chapter for any matter other than a matter within the person's practice, profession, or expertise, and which is required by the disclosure statement, unless the person failed to use care ordinary in the person's profession, practice, or area of expertise in preparing the information.

**Sec. 9. NEW SECTION. 558A.7 CHAPTER IS NOT LIMITING.**

The duties imposed upon persons under this chapter or under rules adopted by the real estate commission shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by another provision of law, or under a contract between parties.

**Sec. 10. NEW SECTION. 558A.8 VALIDITY OF A TRANSFER.**

A transfer under this chapter shall not be invalidated solely because of a failure of a person to comply with a provision of this chapter.

**Sec. 11. EFFECTIVE DATE – DIRECTION TO CODE EDITOR – IMPLEMENTATION.**

1. Except as provided in this section, this Act shall become effective on July 1, 1994.

2. The Code editor is directed to codify this Act in the 1993 Code Supplement and provide necessary footnotes.

3. The real estate commission is directed to begin the adoption of rules necessary to implement this Act, upon enactment.

4. This section is effective upon enactment.

**CHAPTER 31**  
**WEAPONS PERMITS**  
*S.F. 59*

**AN ACT** relating to prohibiting fire fighters and certain emergency medical services personnel from being required to obtain a professional permit to carry weapons as a condition of employment.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 724.6, Code 1993, is amended to read as follows:  
724.6 PROFESSIONAL PERMIT TO CARRY WEAPONS.

1. A person may be issued a permit to carry weapons when the person's employment in a private investigation business or private security business licensed under chapter 80A, or a person's employment as a peace officer, correctional officer, security guard, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. The permit shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder, and shall state the nature of the employment requiring the holder to go armed. A permit so issued, other than to a peace officer, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in the employment, and while going to and from the place of the employment. A permit issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times. Permits shall expire twelve months after the date when issued except that permits issued to peace officers and correctional officers are valid through the officer's period of employment unless otherwise canceled. When the employment is terminated, the holder of the permit shall surrender it to the issuing officer for cancellation.

2. Notwithstanding subsection 1, fire fighters, as defined in section 411.1, subsection 9, airport fire fighters included under section 97B.49, subsection 16, paragraph "d", subparagraph (4), emergency medical technicians-ambulance and emergency rescue technicians, as defined in section 147.1, and advanced emergency medical care providers, as defined in section 147A.1, shall not, as a condition of employment, be required to obtain a permit under this section. However, the provisions of this subsection shall not apply to a person designated as an arson investigator by the chief fire officer of a political subdivision.

Approved April 22, 1993

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**CHAPTER 32**  
**EMPLOYMENT OF SCHOOL ADMINISTRATORS**  
*H.F. 104*

**AN ACT** relating to the employment of administrators by school districts and area education agencies.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 279.21, Code 1993, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** For purposes of this section and sections 279.23, 279.23A, 279.24, and 279.25, the term "principal" includes school principals, associate principals, and assistant principals.